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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,354	09/25/2003	Rudi Schurmans	1316N-001653	7119

27572 7590 05/03/2005

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EXAMINER
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BUTLER, DOUGLAS C

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/671,354

**Applicant(s)**

SCHURMANS, RUDI

**Examiner**

Douglas C. Butler

**Art Unit**

3683

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-9 and 11-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,5-9,11-16,21 and 24 is/are allowed.
- 6) ☒ Claim(s) 17-20,22,23,25-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. The election requirement between the species is withdrawn.
2. Claims 1, 3, 5-9, 11-16, 21, 24 are allowed.
3. Claims 2, 4, 10 have been canceled.
4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 17-20, 22-23, 25-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no clear antecedent basis for "said biasing member" of claim 17, lines 1-2 in that claim 16, line 2 recites "a biasing member" and also claim 1, lines 14-16 includes "a biasing member".

Re claims 22-23, there are no clear antecedent bases for "said biasing member" of claim 22, lines 1-2, claim 23, lines 1-2 since "a biasing member" is recited in claim 1, lines 14-16 and claim 16, line 2.

With respect to claims 25-27 there are no clear antecedent bases in the claims for "said biasing member" of lines 1-2 of each of claims 25-27 in that both claim 24, line 4 defines "a biasing member" and claim 1, lines 14-16 also recites "a biasing member".

6. Claims 17-20, 22-23, 25-27 will be allowed upon correction of the claim indefiniteness noted above.


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7. Applicant's argument on patentability are convincing for the reasons clearly set forth in applicant's response. Note, however, column 8, lines 45-46 of Forster which states that the intermediate tube may be "floating".

In Forster, although the pressure tube 33 may be floating, the newly added feature of the "biasing member ... assembly" of claim 1, lines 14-16 is not obviously encompassed by Foster in the manner claimed in claim 1, lines 12-18.

8. Any inquiry concerning this communication should be directed to Exmr Butler at telephone number 571-272-7115.

Butler/vs  
April 29, 2005

  
DOUGLAS C. BUTLER  
PRIMARY EXAMINER  
4/30/05  
AU 3683